

IN RE: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

Case No. 07-cv-5944 JST

## ALL INDIRECT PURCHASER ACTIONS

**ORDER GRANTING MOTION TO  
VACATE 2010 STIPULATION AND  
ORDER; GRANTING MOTION  
FOR APPOINTMENT OF  
INTERIM CO-LEAD COUNSEL  
FOR INDIRECT PURCHASER  
OMITTED REPEALER STATE  
SUBCLASS; AND GRANTING  
MOTION FOR APPOINTMENT OF  
CO-LEAD COUNSEL FOR  
INDIRECT PURCHASER  
PLAINTIFFS WITH CLAIMS IN  
NON-REPEALER STATES**

ECF Nos. 5449, 5451, 5469

Good cause appearing, and for the reasons stated on the record on June 6, 2019, the Motion to Vacate or Clarify the 2010 Stipulation and Order, ECF No. 5469, is GRANTED. The 2010 Stipulated Order, ECF No. 799, is vacated except with respect to Paragraph 5.a. to the extent that paragraph permits the Indirect Purchaser Plaintiffs to file a Third Consolidated Amended Complaint naming “plaintiffs in . . . Maine claiming injury under . . . Maine law,” *id.*

Good cause appearing, and for the reasons – and notwithstanding the concerns – stated on the record on June 6, 2019, the Motion for Appointment of Interim Co-Lead Class Counsel for Indirect Purchaser Omitted Repealer State Classes, ECF No. 5451, is GRANTED as to the states of Arkansas, Massachusetts, Missouri, Montana, New Hampshire, Oregon, Rhode Island, South Carolina, and Utah (“ORS Subclass”). At the June 6 hearing, the Court expressed concerns regarding the ability of the existing class representatives to adequately represent states in which they

1 suffered no injury. Those concerns were misplaced. The question of class representative adequacy  
2 must await a motion for class certification. To the extent the issue is framed as one of standing, the  
3 Court exercises its discretion to address that issue at certification as well. *In re Carrier IQ, Inc.*, 78  
4 F. Supp. 3d 1051, 1068-74 (N.D. Cal. 2015). In granting this motion, the Court expresses no  
5 opinion about the viability of the claims of the ORS Subclass, any of its constituent parts, or any  
6 individual subclass member.

7 The Motion of Cooper & Kirkham, P.C., for Appointment as Lead Counsel for Indirect  
8 Purchaser Plaintiffs with Claims in Non-Repealer States, ECF No. 5449, is GRANTED as to the  
9 states of Alabama, Alaska, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana,  
10 Kentucky, Louisiana, Maryland, New Jersey, Ohio, Oklahoma, Pennsylvania, Texas, Virginia,  
11 Washington, and Wyoming (“NRS Subclass”). The Court’s previously-expressed concerns about a  
12 potential conflict are no longer present because Ms. Kirkham no longer represents a repealer state  
13 plaintiff. *See* ECF No. 5513. She represents only Eleanor Lewis, a resident of Ohio. Also, for the  
14 same reasons that counsel for the ORS Subclass need not identify a class representative for each  
15 state now, *supra*, Ms. Kirkham need not identify a class representative for each non-repealer state.  
16 The Court’s conclusion in this regard is further strengthened by the fact that the NRS Subclass’  
17 claims arise only under the Clayton Act, and not under any of the individual states’ laws. In  
18 granting this motion, the Court expresses no opinion about the viability of the claims of the NRS  
19 Subclass, any of its constituent parts, or any individual subclass member.

20 Except as otherwise noted, the transcript of the June 6, 2019 hearing serves as the record of  
21 the Court’s reasons for the foregoing orders. *See* ECF No. 5499 at 8:15-18.

22 **IT IS SO ORDERED.**

23 Dated: July 3, 2019

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26 JON S. TIGAR  
United States District Judge